

TITLE II
CHAPTER 10
SWIMMING POOL, SPA AND HOT TUB CODE

SECTION 1 ADOPTION OF UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE

II-10-1.01 The Uniform Swimming Pool, Spa and Hot Tub Code, published by the International Association of Plumbing and Mechanical Officials, 1997 Edition, is hereby adopted by reference as the Swimming Pool, Spa and Hot Tub Code for the City of Milpitas with amendments as identified herein. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

SECTION 2 AMENDMENTS TO THE 1997 UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE

II-10-2.01 Part I of the Uniform Swimming Pool, Spa and Hot Tub, 1997 Edition, ("Uniform Code") dealing with administration is deleted in its entirety.

II-10-2.02 Section 310.1 of the Uniform Code is amended to read as follows:

310.1 **Disposal of Pool Water.** Disposal of the total content of the pool (periodic emptying) shall be discharged to the sanitary sewer unless otherwise approved by the Chief Building Official.

II-10-2.03 Section 310.2 of the Uniform Code is amended to read as follows:

310.2 **Direct Connections.** No direct connection shall be made between any storm drain, sewer drainage systems and any line connected to a swimming pool, spa or hot tub.

II-10-2.04 Section 310.4 of the Uniform Code is amended to read as follows:

310.4 **Disposal of Pool Water:** When a public sewer drain of adequate capacity is available for use, pool and hot tub or spa waste water shall be discharged thereinto. Permission shall be first be obtained in writing from the proper authority to make such discharge. A copy of such permission stating the maximum size of the waste line between the receptor and the sewer, and other specific requirements shall accompany the applications for a permit made to the Chief Building Official.

II-10-2.05 Section 310.5 and 310.6 of the Uniform Code are deleted in their entirety.

II-10-2.06 Section 311 of the Uniform Code entitled is amended to read as follows:

311 **Separation Tank.** A separation tank of an approved type shall be installed, connected as a reclamation system, when connection to the sanitary sewer is not installed per Sections 310.1, 310.4.

EXCEPTION:

Cartridge type filter systems (non back-wash style filter systems).

SECTION 3 BARRIERS FOR SWIMMING POOLS, SPAS, AND HOT TUBS. Section 3 is added to the Uniform Code to read as follows:

II-10-3.01 A. **General**

The provisions of this section apply to the design and construction of barriers for swimming pools located on the premises of all occupancies.

B. **Standards of Quality**

In addition to the other requirements of this code, safety covers for pools and spas shall meet the requirements for pool and spa safety covers as listed below. The standard listed below is a recognized standard.

1. ASTM F 1346, Standard Performance Specification for Safety Covers and Labeling Requirement for All Covers for Swimming Pools, Spas and Hot Tubs.

C. **Definitions**

For the purpose of this section, certain terms, words and phrases are defined as follows:

ABOVEGROUND/ON-GROUND POOL. See definition of "swimming pool."

BARRIER is a fence, wall, building wall, or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

GRADE is the underlying surface such as earth or a walking surface.

HOT TUB. See definition of "spa, nonself-contained" and "spa, self-contained."

IN-GROUND POOL. See definition of "swimming pool."

SEPARATION FENCE is a barrier which separates all doors of a dwelling unit with direct access to a swimming pool from the swimming pool.

SPA, NONSELF-CONTAINED, is a hydromassage pool or tub for recreational or therapeutic use, not located in health-care facilities, designed for immersion of users and usually having a filter, heater and motor-driven blower. It may be installed indoors or outdoors, on the ground or on a supporting structure, or in the ground or in a supporting structure. A nonself-contained spa is intended for recreational bathing and contains water over 24 inches (610 mm) deep.

SPA, SELF-CONTAINED, is a continuous-duty appliance in which all control, water-heating and water-circulating equipment is an integral part of the product, located entirely under the spa skirt. A self-contained spa is intended for recreational bathing and contains water over 24 inches (610 mm) deep.

SWIMMING POOL is any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools; and fixed-in-place wading pools.

SWIMMING POOL, INDOOR, is a swimming pool which is totally contained within a residential structure and surrounded on all four sides by walls of said structure.

SWIMMING POOL, OUTDOOR, is any swimming pool which is not an indoor pool.

D. Requirements

Outdoor Swimming Pool. An outdoor swimming pool shall be provided with a barrier that shall be installed, inspected and approved prior to plastering or filling with water. The barrier shall comply with the following:

1. The top of the barrier shall be at least 60 inches (1524 mm) above grade measured on each side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance at the bottom of the barrier may be increased to 4 inches (102 mm) when grade is a solid surface such as a concrete deck, or when the barrier is mounted on the top of the aboveground pool structure. When barriers have horizontal members spaced less than 45 inches (1143 mm) apart, the horizontal members shall be placed on the pool side of the barrier. Any decorative design work on the side away from the

swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.

2. Openings in the barrier shall not allow passage of a 1-3/4 inch-diameter (44 mm) sphere.

EXCEPTIONS: 1. When vertical spacing between such openings is 45 inches (1143 mm) or more, the opening size may be increased such that the passage of a 4 inch diameter (102 mm) sphere is not allowed. 2. For fencing composed of vertical and horizontal members, the spacing between vertical members may be increased up to 4 inches (102 mm) when the distance between the tops of horizontal members is 45 inches (1143 mm) or more.

3. Chain link fences used as the barrier shall not be less than 11 gage.
4. Access gates shall comply with the requirements of Items 1 through 3. Pedestrian access gates shall be self-closing and have a self-latching device. Where the release mechanism of the self-latching device is located less than 57 inches (1448 mm) from the bottom of the gate, (1) the release mechanism shall be located on the pool side of the barrier at least 3 inches (76 mm) below the top of the gate, and (2) the gate and barrier shall have no opening greater than 1/2 inch (13 mm) within 18 inches (457 mm) of the release mechanism. Pedestrian gates shall swing away from the pool. Any gates other than pedestrian access gates shall be equipped with lockable hardware or padlocks and shall remain locked at all times when not in use.
5. Where a wall of a Group U, Division 1 Occupancy dwelling unit serves as part of the barrier and contains door openings between the Group U, Division 1 and the outdoor swimming pool, which provide direct access to the pool, a separation fence meeting the requirements of Items 1, 2, 3 and 4 Section II-10-3.01 D shall be provided.

EXCEPTIONS: When approved by the Chief Building Official, one of the following may be used:

1. Self-closing and self-latching devices installed on all doors with direct access to the pool with the release mechanism located a minimum of 57 inches (1448 mm) above the floor.
2. An alarm installed on all doors with direct access to the pool. The alarm shall sound continuously for a minimum of 30 seconds within seven seconds after the door and its screen, if present, are

opened, and be capable of providing a sound pressure level of not less than 85 dBA when measured indoors at 10 feet (3048 mm). The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as a touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last no longer than 15 seconds. The deactivation switch shall be located at least 57 inches (1448 mm) above the threshold of the door.

3. Other means of protection may be acceptable so long as the degree of protection afforded is not less than that afforded by any of the devices described above.
6. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then (1) the ladder or steps shall be capable of being secured, locked or removed to prevent access or (2) the ladder or steps shall be surrounded by a barrier which meets the requirement of Items 1 through 5. When the ladder or steps are secured, locked or removed, any opening created shall be protected by a barrier complying with Items 1 through 5.
7. **Indoor Swimming Pool.** For an indoor swimming pool, protection shall comply with the requirements of Section II-10-3.01 D, Item 5.
8. **Spas and Hot Tubs.** For a nonself-contained and self-contained spa or hot tub, protection shall comply with the requirements of Section II-10-3.01 D.

EXCEPTION: A self-contained spa or hot tub equipped with a listed safety cover shall be exempt from the requirements of Section II-10-3.01 D.

E. **Mandatory Requirements**

No person in possession of land within the city, either as owner, purchaser, lessee, tenant or a license, upon which is situated a pool, shall fail to provide and maintain such fence or wall as herein provided.

F. **Chief Building Official May Make Modifications on Fence Specifications**

The Chief Building Official may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefor, provided the protection as sought

hereunder is not reduced thereby. The Chief Building Official may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein.

G. Applicability

The provisions of this Chapter shall be applicable to all existing pools within ninety (90) days of the effective date of this Ordinance, and shall be applicable to all pools hereafter constructed.

H. Inspection and Approval

The fence or wall referred to in Section II-10-3.01 of this Chapter shall be deemed to be a “structure” within the meaning of the term as it is used in Chapter 1, Title II (Building Regulations) of the Milpitas Municipal Code. Final inspection and approval of all pools hereafter constructed shall be withheld until all requirements of this Chapter have been complied with.

SECTION 4 SPECIAL ADMINISTRATION. Section 4 is added to the Uniform Code to read as follows:

II-10-4.01 A. **Scope**

The provisions of this Code shall apply to the erection, installation, alteration, addition, repair, relocation, replacement, maintenance or use of any swimming pool, spa and hot tub plumbing system except as otherwise provided for in this Code.

B. **Existing Installations**

1. Any swimming pool, spa and hot tub plumbing system lawfully installed prior to the effective date of this Code may have its existing use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and location and no hazard to the public health, safety or welfare has been created by such system.
2. The owner of the real property on which the swimming pool is located and the party in possession of said real property shall be responsible for the maintenance of the swimming pool plumbing system in a safe and sanitary condition.

C. **Administrative Authority**

The Administrative Authority shall be the Chief Building Official of the City of Milpitas who may act by his authorized representatives (being such assistants, deputies, inspectors or other employees as are authorized to carry out the functions of the department of this Code).

D. **Conflict**

If any procedural provision of Chapter 1, Title II of the Milpitas Municipal Code shall conflict with an express procedural provision of the Uniform Code hereby adopted, the provisions of this Uniform Code shall prevail. If any provision of Chapter 1, Title II of the Milpitas Municipal Code relating to plumbing or installation standards shall conflict with the provisions of the Uniform Code hereby adopted, the provisions of the Uniform Code hereby adopted shall prevail. Provided, however, that all remedies and penalties provided in said Chapter 1, Title II of the Milpitas Municipal Code and in the Uniform Code hereby adopted shall be cumulative and not exclusive and in addition to such other remedies or penalties as are provided by law.

E. **Limitations on Permit**

The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or approval of, any violation of any of the provisions of this Code. No permit presuming to give authority to violate or cancel the provisions this Code shall be valid, except insofar as the work or use which it authorized is lawful.

The issuance of granting of a permit or approval of plans shall not prevent the Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this Code or of any other ordinance or from revoking any certificate of approval when issued in error.

Every permit issued by the Administrative Authority under the provisions of this Code shall expire by limitation and become null and void. If the work authorized by such permit is not commenced within one-hundred eighty (180) days from date of issuance of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one-hundred eighty (180) days. Before such work can be recommenced, a new permit shall be first obtained, and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made, or will be made in the original plans and specifications for such work; and provided, further, that such suspension or abandonment has not exceed one (1) year.

F. Permit Required

1. It shall be unlawful for any person to install, remove, alter, repair or replace or cause to be installed, removed, altered, repaired, or replaced any plumbing, gas or drainage piping work or any fixture, swimming pool heater or treating equipment in a building or premises without first obtaining a permit to do such work from the Administrative Authority.
2. A separate permit shall be obtained for each building structure or swimming pool.
3. No person shall allow any other person to do or cause to be done work under a permit secured by a Permittee except persons in his employ.

G. Work Not Requiring a Permit

No permit shall be required in the case of any repair work as follows: The stopping of leaks in drains, soil, waste or vent pipe, provided, however, that should any trap, drainpipe, soil, waste or vent pipe be or become defective and it

becomes necessary to remove and replace the same with new material in any part or parts, the same shall be considered as such new work and a permit shall be procured and inspection made as herein before provided. No permit shall be required for the clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, when such repairs do not involve or require the replacement or rearrangement valves, pipes or fixtures.

H. **Application for Permit**

Any person legally entitled to apply for and receive a permit shall make such application on forms provided for that purpose. He shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith. The Administrative Authority may require plans, specifications or drawings and such other information as he may deem necessary and as prescribed in Section II-10-3.01 of this Code.

Application for permits for new construction shall be accompanied by plans in duplicate, and in sufficient detail including the following:

(1) -- Plot plans with site grades dimensioned, and drawn to a scale of not less than one-eighth inches (1/8~) per foot, and showing at least the following:

- a. Property lines, easements, right-of-way of record, and overhead utilities adjacent to pool area or over the property.
- b. Existing structures, fencing, retaining walls, and other relevant characteristics adjacent to pool area.
- c. The proposed pool shape, dimensioned and located to show setbacks, side yards, and clearance from existing structures adjacent to pool area.
- d. The proposed mechanical equipment pad, dimensions and location as to setbacks and side yards.
- e. All deck equipment items, if included.
- f. The proposed deck work configuration, showing its anticipated drainage.
- g. The anticipated overall drainage of the pool site.

(2) -- A structural plan showing at least the following:

- a. The type of construction, whether gunite, poured concrete, prefabricated, or other.
- b. The pool dimensions, including the depth, and adequate cross sections drawn to scale.

- c. Computations, stress diagrams, and other data sufficient to show the correctness of the plans; including the reinforcing steel schedule and details.
- d. A statement by the applicant concerning the anticipated nature of the soil under and around the pool structure.
- e. The interior finish details.
- f. The pool edge details.

(3) -- A mechanical plan showing at least the following:

- a. The volume, system flow rate in gallons per minute, and turnover in hours.
- b. The type and size of filtration system and means of waste disposal.
- c. The type and size of pool heater, if included, including the method of venting and provisions for combustion air.
- d. The pool piping layout with all sizes shown and types of material to be used, and showing the location of the main outlet, surface skimmers, and inlets.
- e. The rated capacity of the pool pump in G.P.M. at the design head with the size and type of motor indicated and identified as to type of pump.
- f. The means of adding makeup water.
- g. The size, length from source to heater and routing of the gas line, if applicable.

If the Administrative Authority determines that the plans, specifications, drawings, descriptions, or information furnished by the applicant is in compliance with this Code, he shall issue the permit applied for upon payment of the required fee as hereinafter fixed. The Administrative Authority shall further require that permits be obtained by the persons responsible for all of the electrical, plumbing, related utility connection and heating work prior to or in conjunction with issuance of the building permit for the pool structure.

The above requirements shall not void any requirement by any other department having jurisdiction.

All plans and documents submitted shall be on substantial paper and shall show the name and address of the person under whose supervision the documents were prepared.

J. Cost of Permit

Every applicant for a permit to install, alter, or repair a swimming pool system or part thereof, shall state in writing on the application form provided for that purpose, the character of work proposed to be done and the amount and kind in

connection therewith, together with such information pertinent thereto as may be required.

Such applicant shall pay for each permit and plan check at the time of making application, a fee in accordance with the building permit fee schedule for residential or commercial construction. In addition, the applicant shall pay the required electrical, plumbing and mechanical permits in accordance with their fee schedules.

Any person who shall commence any swimming pool work for which a permit is required by this Code without having obtained a permit therefore shall, if subsequently permitted to obtain a permit, pay double the permit fee fixed by the section for such work, provided, however, that this provision shall not apply to emergency work when it shall be demonstrated to the satisfaction of the Administrative Authority that such work was urgently necessary and that it was not practical to obtain a permit therefor, before the commencement of the work. In all such cases a permit must be obtained as soon as it is practical to do so, and if there be an unreasonable delay in obtaining such permit, a double fee as herein provided shall be charged.

K. Extra inspections:

When extra inspections are necessary by reason of deficient or defective work, or otherwise through fault or error on the part of the holder of the permit or on the part of his employees, only one such extra inspection shall be made under the regular fees as herein prescribed; and for each and every further extra visit or inspection for which the holder of the permit or his employee is entirely responsible, a reinspection fee as required by Council resolution.

Whenever it shall be necessary to make any additional inspection due to the failure or neglect of the applicant to give the correct address or location of the work specified in the permit when applying therefor, for each additional reinspection an inspection fee shall be collected as required by Council resolution.

L. All Work To Be Inspected

All swimming pool installations or alterations thereto including equipment, piping and appliances related thereto shall be inspected by the Administrative Authority to insure compliance with all the requirements of this Code.

M. Notification

It shall be the duty of the person doing the work authorized by the permit to notify the Administrative Authority orally or in writing, that said work is ready for inspection. Such notification shall be given not less than twenty-four (24) hours before the work is to be inspected.

It shall be the duty of the person doing the work authorized by the permit, to make sure that the work will stand the test prescribed elsewhere in this Code before giving the above notification.

N. Stop Orders

Whenever any work is being done contrary to the provisions of this Code, the Administrative Authority or his authorized representative may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Administrative Authority to proceed with the work.

O. Suspension or Revocation

The Administrative Authority may, in writing, suspend or revoke a permit issued under provisions of this Code, whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of any provisions of this Code.

P. Public Nuisance: Abatement:

1. Any swimming pool, spa and hot tub or any portion of a swimming pool plumbing system found by the Administrative Authority to be unsanitary as defined herein as hereby declared a public nuisance.
2. Any swimming pool, spa and hot tub which provides a breeding ground or habitat for mosquitoes or other insect life or for frogs, or other amphibious life or which is so poorly maintained as to be a source of noxious odors is hereby declared to be a public nuisance.
3. Said nuisance may be abated in accordance with the procedures set forth in Section 4 of Chapter 20, Title I of the Milpitas Municipal Code. Abatement proceedings hereunder shall be subject to the provisions of said Section 4, Chapter 20, Title I of the Milpitas Municipal Code.

Provided, however, that instead of recording a notice of lien as authorized by Subsection I-20-4.12 of the Milpitas Municipal Code, the City of Milpitas by its duly authorized representative may file suit against

the owner of the property and the party in possession of said property on which the swimming pool, spa and hot tub is located for the costs of abatement. Suit may be filed in any court of competent jurisdiction.

SECTION 5 REPEAL OF CONFLICTING ORDINANCES

- II-10-5.01 Upon adoption of each new Swimming Pool, Spa and Hot Tub Code as amended, the previously adopted Uniform Swimming Pool, Spa and Hot Tub Code and the Pool Fencing Ordinance are superseded in their entirety.

SECTION 6 SEVERABILITY

- II-10-6.01 The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said chapter hereby adopted shall remain in full force and effect.

SECTION 7 EFFECTIVE DATE

- II-10-7.01 This ordinance shall become effective on November 1, 2002